LEO P. CUNNINGHAM, State Bar No. 121605
lcunningham@wsgr.com
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304-1050
Telephone:  (650) 493-9300
Facsimile:   (650) 565-5100

Attorneys for Defendant
Toby G. Scammell

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

| | |
|---|---|
| UNITED STATES OF AMERICA, | ) CASE NO.: 2:13-cr-0733 |
| Plaintiff, | ) |
| | ) **DEFENDANT'S UNOPPOSED** |
| v. | ) **REQUEST TO MODIFY** |
| | ) **CONDITIONS OF** |
| TOBY G. SCAMMELL, | ) **SUPERVISED RELEASE** |
| Defendant. | ) **[NO HEARING REQUIRED]** |

1    Defendant Toby G. Scammell, by and through his counsel, hereby requests

2    that his current conditions of supervised release and home detention be modified so

3    that he can work seventy-five hours per week.  That is an additional twenty-five

4    hours beyond the fifty hours he is currently allowed to be out of his residence for

5    work.  The additional hours are requested in order to allow Mr. Scammell to

6    adequately perform all that is required of him at his business.  The fifty-hour limit

7    on the time Mr. Scammell is allowed to work is neither statutory nor court-ordered;

8    it is a rule of the Probation Office for the Northern District of California from

9    which Probation is unable to depart without the Court's approval.  This request is

10    unopposed by both the United States Probation Officer currently supervising Mr.

11    Scammell and by the United States Attorney's Office for the Central District of

12    California.

13    The Court is authorized to grant the request by 18 U.S.C. § 3583(e)(2).  No

14    hearing is required where, as here, "the relief sought is favorable to the person and

15    does not extend the term of . . . supervised release."  Fed. R. Crim. P.

16    32.1(c)(2)(B).

17    **BASES FOR REQUEST**

18    1.    On August 7, 2014, the Court sentenced Mr. Scammell to a three-

19    month term of imprisonment to be followed by a four-year term of supervised

20    release.  Dkt. No. 81.

21    2.    The Court further ordered Mr. Scammell to participate for six months

22    in a "home detention program which may include electronic monitoring, GPS,

23    Alcohol Monitoring Unit or automated identification system" and to "observe all

24    rules of such program, as directed by the Probation Officer."  Dkt. No. 81.

25    3.    Mr. Scammell successfully served his period of incarceration and was

26    released on December 18, 2014.  *See* Declaration of Toby G. Scammell

27    ("Scammell Decl.") at ¶ 1, filed concurrently herewith.

28

DEFENDANT'S UNOPPOSED REQUEST TO MODIFY          -1-
CONDITIONS OF SUPERVISED RELEASE
CASE NO.: 2:13-CR-0733

1    4.    Mr. Scammell has fully complied with the conditions of his

2  supervised release and home detention.  On March 17, 2015, Probation Officer

3  Alton Dural informed counsel for Mr. Scammell that Mr. Scammell has fully

4  complied with the conditions of his supervised release, has followed all directives,

5  and has been cooperative.  *See* Declaration of Naira Der Kiureghian ("Der

6  Kiureghian Decl.") at ¶ 2, filed concurrently herewith.

7    5.    On March 30, 2015, Mr. Dural further advised counsel for Mr.

8  Scammell that his office does not oppose this modification requested by Mr.

9  Scammell.  Der Kiureghian Decl. at ¶ 3.

10    6.    Mr. Scammell is currently permitted by the Probation Office to leave

11  his residence for fifty hours per week in order to attend to his business.  Scammell

12  Decl. at ¶¶ 3-4.

13    7.    Mr. Scammell is limited in his ability to carry out all his business

14  obligations within the fifty-hour limit.  *Id.* ¶¶ 4-9.  Increasing the hours that Mr.

15  Scammell is permitted to leave his residence for work to seventy-five hours per

16  week would enable Mr. Scammell to fully satisfy those obligations.

17    8.    Assistant United States Attorney Stephen Cazares was informed of

18  this request and the contents of this submission and he indicated his office had no

19  opposition to the granting of the request.

20                    **CONCLUSION**

21    For the foregoing reasons, and based on the entire record in this case, it

22  should be ordered that Mr. Scammell be allowed to work seventy-five hours per

23  week outside his residence during the term of his home detention.

24  Dated:  April 1, 2015          WILSON SONSINI GOODRICH & ROSATI
                                   Professional Corporation
25

26                                 By:  /s/ Leo P. Cunningham
                                        Leo P. Cunningham

27                                      Attorneys for Defendant
                                        Toby G. Scammell
28

DEFENDANT'S UNOPPOSED REQUEST TO MODIFY          -2-
CONDITIONS OF SUPERVISED RELEASE
CASE NO.: 2:13-CR-0733